



A JURY-MAN'S  
JUDGMENT


Upon the CASE of  
Lieut. Col. JOHN LILBURN:

Proving,  
By well-grounded ARGUMENTS, both to his  
own, and every Jury-man's CONSCIENCE,

*That they may not, cannot, ought not find him guilty upon the Act of Parliament  
made for his Banishment, and to be a Felon for returning into England.*

*That if any should be tempted or misled so to do, they are notorious murderers by the  
Law of England, it being the worst of Crimes that is done by colour of Law. And,*

*That it is as great a wickedness for any (either Judges or Sheriffs, or any other per-  
son) to have a hand in his death upon that Act, as wilfully to murder him.*

ome, my dear Friends and loving Country-men, we the good men of  
England are continually called forth by Law to judge and to deter-  
mine of men in all causes; amongst which, many are more difficult and  
weighty then others; and some so rare and seldom heard-of, that  
if we take not very good heed and consider things very wel beforehand,  
and come substantially furnished and provided with sound and well-grounded con-  
sciences, and with clear and prepared minds, free from fear, hope, or favour, in-  
stead of judging others, we our selves may become as callawayes, and stand in the  
sight of God our Creator and Judge of all men, no better then the vilest Reprobates  
and Murderers.

And truly, if ever there were a case of a rare and seldome heard-of nature, cer-  
tainly the present case of Lieut. Colonel John Lilburn is such; for although to such  
as look but upon the outside of things, there seems no great matter in it, which con-  
cerns his Jury-men to judge of, most men supposing that all which is required of  
us to do, is but to observe and to consider the evidence, proving that single person to  
be that John Lilburn that was banished by the Act, and that it is the very same that  
is returned, and so that being soon proved, from us to pronounce him guilty, upon  
which, death as a Felon is certain to proceed: though it be very likely this is all his  
prosecutors will urge upon us as our duty, yet we who are to answer for our selves

to God, and not to them, must find that there is a greater weight lying upon us in this case then so; nor must we so easily be made instrumental to fulfil the wills of men: for whatever the most Learned or Eloquent man may say, the very life of this man, Lieut. Col. *Lilburn* lies charged upon us, nor can he suffer death as a Felon, except we find and pronounce him guilty; so that except we are fully satisfied in our consciences, that he hath committed, and stands before us charged, and is legally proved to have committed some crime, which in the known Law of *England*, and the very nature of the offence is Felony, and justly deserves to die for it, with what conscience can any of us pronounce him guilty? shall we bring in our Verdict guilty; because he is *John Lilburn* returned from banishment, contrary to an Act, that makes his return Felony? and must our Verdict usher in his Death, and so, as that he cannot die, except we do it? and shall we be so blind and sottish as to do it, before we are satisfied in our consciences both of the lawfulness of the Parliaments making such an Act, and of the heinousness of the crime committed by *John Lilburn*, upon which they made it? No, my Brethren, God forbid that we should do this great wickedness, and so sin against God: we must be as careful, and are as highly concerned to be satisfied in our understandings of the Parliaments Authority to make such an Act; and that Mr. *Lilburn* hath committed a crime, and so proved here in his presence, that by the true Law of *England* is Felony, as we are to be satisfied that this is that *Jo. Lilburn*: for if the former be not as clear to us as the latter, and we pronounce him guilty, and he die upon it, how can we by all the art in the world be excused from being his murderers? Wherefore, dear Friends, let us with all meekness and uprightness of heart, and in the fear of God, as such who know and believe that we must all appear before the Judgment-seat of Christ, there to render a most strict account for such trusts as these; let us (I say) fit and prepare our selves, as by prayer, meditation, and by a due search into the true Laws and Rights of our native Country; and if upon a full and impartial examination we find him not guilty of such a crime as by our known Law is Felony, and for which we in our consciences (guided by our Law) do judge that he ought not to suffer death, let us with the assistance of God, with all integrity pronounce him not guilty, not fearing in the least what man can do unto us.

But that we may be grounded and established in our judgments, let us take a view of Mr. *Lilburn's* Case, and the Parliaments dealing with him, and judge impartially thereupon: the truth whereof is this; for what was done was not in a corner, but as upon the house top: And every one knows that the main Agent in the whole work is Sir *Arthur Haslerig*, who of late years growing to be a mighty landed and powerful man in the Northern parts, and in the Bishoprick of *Durham*, where the Family of the *Lilburns* have always been of good esteem and repute as men of courage, and such as in all times opposed every arbitrary power: Sir *Arthur* finding them such, and not brooking their aptness to oppose him, took all occasions to manifest a spirit of enmity towards them.

And amongst other things, L. Col. *Lilburn* being a close prisoner in the Tower, and put very hard to it for want of moneys to maintain his Family. Sir *Arthur* takes advantage of his Imprisonment, and without any authority, makes seizure of some hundreds of pounds which was due to him from one in those parts; upon which Master *Lilburn* published this injustice of his in printed books, lamentably complaining thereof, but prevailed not.

But



But in short time after, was ordered to a Tryal for his life at *Guild-hall*, which some conceived to proceed primarily from Sir *Arthur*, because there was a stop of building the Scaffolds for a week, in which time he came to *London*, being expected a week before.

How matters were carried at that Tryal, we all know, what extream earnestness there was in Mr. *Prideaux* the Attorney-General, and in all the Judges to take away his life; and had not his Jury been men that feared God more then the faces of men, he had not escaped: but they left a good example to us, and to all Jurymen throughour *England* of an undaunted integrity.

After this, Mr. *Lilburn* being at liberty, we all know he betook himself to assist such as had occasion, as a Counsellor in Causes depending either in Legal Courts, or before Committees; and amongst many others, engaged as Counsel for one Master *Primate*, in recovery of a Colliary near *Newcastle* upon Tyne; which having at some time before received some kind of tryal at the Committee in the North, where Sir *Arthur* was in some sort interested. Upon complaint made, the whole matter was brought before the Commissioners of Sequestration at *Haberdashers hall*; where Sir *Arthur* daily appeared in opposition to Mr. *Lilburn* and *Primate* his clyent, and there were for many days very large reasonings, pleadings, and debates, and sometimes hot and tart, only before a numerous people: *Lilburn* and his clyent, and very many others that heard the same, being confident of right on their side, and that they had made it so apparent, that it could not be given against them.

But, contrary to their expectation in conclusion, the major part of the Committee carried it clearly against them, Master *Moyer* the Chair-man dissenting: upon which Mr. *Lilburn* and his clyent being much moved thereat, immediatly tendered a Petition to the Parliament by way of Appeal from the judgment of that Committee, urging earnestly for a new Tryal: and as a ground of their desire to move the Parliament to condescend thereunto, their Petition imported, That the Committee was over-awed by Sir *Arthur Haslerig*; whereby, and by other indirect means, they were brought to give judgment as they did.

Now this Petition being not presently received, they cause it to be printed, and Mr. *Lilburn* himself gives it to every Member of Parliament. Upon which, the Parliament being moved, took great offence, being offended chiefly at the scandalizing of a Member, by charging Sir *Arthur* with over-awing and the like in that Petition mentioned: next, for that the Petition was printed before it was read by the House: and lastly, because of scandalizing certain Members of the Committee of *Haberdashers hall*, as having given an unjust Judgment in the Case. These three put together, making up the whole crime that *John Lilburn* can possibly be guilty of: this being the utmost that was laid to his charge, which you are especially to note in this place, this being the first appearance of their displeasure, the Parliament's Sentence and Act for his 7000 l. Fine, perpetual Banishment, and be taken as a Felon if he should return, having no other cause upon which they grounded the same, but from these three at most; all the rest of the proceedings which followed in the *Chequer-Chamber*, amounting to no more, but to prove that Mr. *Lilburn* was justly to be charged with scandalizing Sir *Arthur Haslerig*, and divers Members of the Committee of *Haberdashers hall*, and that in printing the Petition before the House had received and read it, he had broken the Privilege of Parliament.

As to the merit of the cause concerning the Colliary in question; the matter was heard again by the Committee appointed in the *Chesquer-Chamber*, where very many were again clearly of opinion that the right was on *Primat's* side; and it is said, that if some Parliament-men then present at the whole debate, day after day, might be heard, they would depose upon their oaths, that the report made by the Chairman Mr. *Hill* the Lawyer, was no true report; but upon his Report, as it was, the Parliament took for proved, That Lieut. Col. *John Lilburn* had highly scandalized Sir *Arthur Haslerig*, and divers Members of the Committee of *Haberdashers-hall*, and had broken the privilege of Parliament, in printing and giving out copies of the Petition before the House had received and read it: And for those offences, did sentence him to pay 7000 l. between Sir *Arthur Haslerig*, and the Members of *Haberdashers-hall*, whom he had scandalized; and to be perpetually banished, and to be taken as a Felon if he should return; and make it an Act of Parliament accordingly: And who being now returned contrary to that Act, is certainly to die, if his Jury pronounce him guilty of the breach of that Act by his so returning. But is here a ground for our consciences to be so far instrumental in his death, as to pronounce him guilty? guilty indeed is soon said, and a man's life is soon taken away, but it is not so soon answered, as unjustly and unlawfully done: death indeed is the lawful punishment due to a Felon in *England*: but then a Felon is known to be so by a Felonious crime: What it is, Jury-men do so well know, that though a man be indicted for Felony, they will not bring him in guilty thereof, if they find his Fact of less Nature; their consciences being to be satisfied of the nature and demerit of the offence, and are not to pronounce guilty; so that the life of a man shall certainly be taken away thereupon, when they in their consciences find him guilty of a Fact, for which by the true Law of the Land, he ought not to die: No, the Law of *England* hath not placed Tryals by Juries to stand between men and death to so little purpose, as to pronounce men guilty without regard to the nature of the offence, or to what is to be inflicted thereupon.

And where now lieth Mr. *Lilburn's* Felonious crime? Is it, or ever was it Felony by the true Law of *England*, for any man to scandalize or slander a Parliament-man, or to scandalize Members of a Committee, or to break the unknown privileges of a Parliament? Or was it only Felony for Mr. *John Lilburn* to do these things? None surely will imagine so; for the Laws of *England* are general, and that which is Felony for any one to do, is Felony for every one that doth it.

Pray you Friends, let us see which of those offences would appear Felonious: admit Mr. *Lilburn* stood before us now indicted, for that he did feloniously affirm, that Sir *Arthur Haslerig* over-awed the Committee at *Haberdashers-hall*: and likewise feloniously slandered that Committee, by saying they gave an unjust judgment in *Primat's* case: And likewise had feloniously broken the privileges of Parliament. Admit all these had been punctually proved, could our Verdict have been that he is guilty of Felony? No, at no hand, nor for a world would we do it. Why? because our Law makes not such offences Felony: What then? could we have brought him in guilty of Banishment? No, neither: our Law hath ordained no such punishment for such offences: What then? how are such offences to be punished? Why Friends, for such offences, thus: Sir *Arthur* conceiving himself slandered or scandalized by Mr. *Lilburn*, might have brought his Action at Common-Law; and upon proof made, have recovered good damages, as Juries commonly give,



give, and so might any of the Commissioners of *Haberdashers-hall*; and may do yet: but if not proved, but on the contrary, that what they urged as slanders, were found truths, there's no offence. And for the breach of Priviledge of Parliament, it hath been so often spoken, and so little understood to have any dependance on the Law of *England*, that no man, neither Parliament-man nor other ever understood to define what they were; but have proved such a prerogative was wont to be, viz. to make a man an offender (at pleasure) for a word, or for a thing that none but themselves could imagine to be offensive; as indeed, what can be in printing and publishing of a Petition before received, or in the House? Why should the matter of a Petition be dainty to be seen? But such things we have lived to see from Parliament, which had our forefathers seen, they would have said, they had been the fruits rather of an imperious Court, then of a peoples Parliament; but God forbid that the Jury-men of *England* should be so fortifh and blindfold, as without examination to serve such Parliaments ends in taking away mens lives upon their Votes or Acts, or evidently contrary to the known Law of the Land.

And such, and no better, will prove this their Act for banishing of *John Lilburne*, it being indeed no Law, but is null and void in it self, because it is contrary to the known Law of the Land, for so are all Laws, though made by Parliament, if they are contrary to the standing Laws of the Nation.

Now nothing in the world is more known then this in *England* to be a standing Law, viz. That no man is to be adjudged of life, limb, liberty or estate, but by judgment of his Peers, according to the old Law and Custom of *England*, which is by Twelve good men of his Neighbourhood; giving also liberty of exception and challenge of five and thirty without shewing cause, and of as many more as against whom he can shew cause, until he finds his Tryers or Jury to stand indifferent; so carefully doth our good old Laws provide against all Tryals by any way of arbitrary discretion.

And surely that is the main standing Law of *England*, no English man can deny, being bound to maintain the same against any whomsoever, all Laws or Acts contrary thereunto, though made by lawful Parliaments, being null and void in themselves, and in no case ought to find any man guilty upon any such pretended Laws.

Which being undeniable Truths, these Conclusions necessarily arise for our information and to be a guide unto us in Mr. *Lilburn's* case.

1. That whatsoever *John Lilburn* had done against Sir *Arthur Haslerig* and the Commissioners at *Haberdashers-hall*, yea though he had slain, or wounded, or beaten, or any wayes scandalized or defamed them, or any of them, yet the Parliament by the Law of the Land are not his Judges or Tryers, for by that before-recited standing Law, no man is to be adjudged of life, limb, liberty or estate, but by Juries. Yea, though *John Lilburn* had referred himself to them to judge him how they pleased, they ought not to have accepted thereof, but to have answered, That by the ancient and standing Law of *England* no man ought to be tried or judged but by Juries; and we sit not here to destroy, but to preserve the true Laws of *England*, all other ways of tryal being in our Law unjust and arbitrary. So as it is evident then in their judging of him themselves as they did, & not leaving him to be tryed according to Law, as they ought, their proceedings were unlawful, and to the subversion of the Fundamental Law, depriving him of his Birth-right, which is in all cases to be tryed by Juries, not otherwise.

that they did as unjustly and as contrary to the known Laws of *England*, in sentencing him so severely as they did, had they been his Jury or legal tryers, as 7000 l. and perpetual Banishment out of his Native Country, whereas they know his adherence to the Parliam. rendered him most unsecure in all parts of the world; and then to make his return Felony, is such an unparalel'd stratagem to ensnare him, that all put together, never was exceeded by any cruelty: Whereas had he had tryal for the things for which they so severely censured him, the Jury had been bound by the Law of *England* to have proportioned the punishment to the offence: and how then had it been possible for them (keeping a good conscience) to have fined a man 7000 l. when it was impossible for them to understand him to be worth 2000 l. in all the world? or how could they have found a ground in Law to have annexed that intolerable sentence of perpetual Banishment, and to have made his return Felony and death, without benefit of Clergie? No friends, this we may see, was no Legal nor Jury-men's work, but a partial way by discretion, where many of his adversaries were his Judges, and where he had no liberty of his lawful right of challenge and exception against any of them, which is the great preservative of an English-man, and without which none can be free from the malice and passion of men in power.

So that here we see, they judging who are not his proper tryers by the Law of the Land, and withal contrary to the known rule of the Law, censure him unjustly beyond the intent of the Law, though they had been his lawful Jury, and make an Act contrary to the known Law of the Land, by which they intended to render him a Felon, and take away his life.

Now the unlawfulness of this Act appears herein, *viz.* in that it provides the capitall punishment of death without any ground in law; for neither is it death by Law to scandalize a Parliament-man, or four or ten Committee-men, nor to break a Parliament-priviledge, nor can, or ought any of these being made death or Felony, because there is no proportion between the offences and punishment, the Law of *England* never understanding things of that nature to be felonious, mens lives to be more precious then so in the esteem of our Law: And if the scandalizing of Parliament-men or Committee-men is not felonious in our Law, surely it is not Felony for an Englishman to return from foreign parts into his native countrey; so that this Act wanting a ground in the Law of *England*, and being contrary thereunto, it is cruelly and severely made, to ensnare a single person, for doing that which never was taken in Law to be Felony, whereby he or any man may be warned thereof, it proves it self not only null and void, as all Acts of Parliament that are made contrary to the standing Law of *England*, but is a most inhumane, barbarous and bloody Act, and such as upon which we can by no means with a safe conscience pronounce him guilty, except instead of approving our selves true English Jury-men, we shall prove our selves the Devils Jury-men; for we cannot pronounce him guilty, but immediately he stands as a condemned Felon, of which felonious crime our consciences do hereby quit him: So that should we do it, and he die upon it, we are his most immediat murderers; for whatever his adversaries might aim at in all their proceeding against him, and particularly in this their bloody act, yet the law of our Fore-fathers hath so carefully placed Juries between men and death, that he cannot receive the sentence of death but upon our verdict.

And therefore since the Parliaments judging of him, themselves is altogether against the Law of *England*.

And



And since the scandalls of Parliament-men, nor others are Feloly, nor the breach of Parliament-priviledge :

Since the punishments compared to the offences, are directly contrary to the Law of *England*.

Since that act upon which he is prosecuted is groundlesse in the Law, and is in it self a cruell, bloody, and insnaring Act, made purposely that his life should be certainly taken away, either by his enemies abroad, or as a Felon if he returned.

Since we finde no felonious action to have proceeded from him in all the whole course of the Parliaments proceedings, upon or against him, we are with an humble and sure confidence in God, to pronounce him not guilty; for what shall it profit us, either to please the malice or opinions of men, for to loose our own souls, rather let it be our choise not to fear those that can kill the se bodies of ours, but to fear him who is able to cast both our bodies and souls into hell fire, from which the Lord deliver and keep us all, and from all those unjust, slight, bloody, and cruell wayes which lead thereunto.

What is or hath been done in the case of Priests and Jesuites, concerns not us, for if there be no more matter of treason against the Common-wealth in the ground and bottom of that Act of Parliament, which makes their coming into *England* treason, whereby to satisfie the consciences of those that are their Triers, that they are Traytors, then there is in the Act for his banishment, to satisfie our consciences that he is to be found a Felon, they have a sad account to make, however not other mens examples, but the justnesse of our proceedings is that which will bear us out in the great and terrible day of the Lord.

Nor are we in the least to be stagger'd by the common fame of his turbulence of spirit, he hath been a vehement assertor and maintainer of the good Laws and Liberties of *England*, and an extraordinary sufferer for his opposing all arbitrary power, and this is all for ought we know that caused him to be esteemed turbulent; nor are we to regard what his opinions are, nor what discontents have been betwixt him and any man, or men, there being no difference in the Law of *England*, but if either wrong other, the Law of *England* either is or should be open to both; what he hath said or done, either here or beyond Sea, to the prejudice or distast of any, great or small, is not now to be regarded, and how common soever the practise of men is at such trialls, and before (wanting matter in the main) to heap up aspersions by the by; such vile and inhumane practises are not to sway us in the least by way of aggravation, but having duly weighed all materiall circumstances, inducing us to make a judgment waving all other matters, either of the sins, offences or infirmities, all of which a little of true Christian charity will cover a multitude, and he that is without let him cast the first stone: of this crime of Felony which he standeth now charged withall, we finde him not guilty; and were we or might we cast any thing into the scale to sway us to any consultation concerning him otherwise then the main matter in hand; His publick good affection to the common Rights of the Nation, his many sufferings and distractions of himself, his wife and family, Sir *Arthur Haslerig* seizing a great part of his livelyhood, his dangers in banishment, his confidence of the justice of the present times, his open, clear and unconcealed casting himself upon the Justice of his Cause, and that in all meeknesse and humility; and his expresse resolution and promise of all peaceable demeaner; all these will cry aloud to us to have a tender regard to his preservation; and we with the present

Power had been satisfied therewith; and nor put him to the extremity; but he needs nothing but our Justice, the Law of *England* having sufficiently provided for his safety, and that we cannot, may not, nor dare not deny him, and that by us pronounceth him not guilty; and the Lord God of Heaven deliver him from all his Enemies: nor are we to be so deluded into murder, as others have been to often in our places, as to take this bloody Act of *Parliament* for good and forcible, untill it be repealed by another *Parliament*; No (God forbid) my Brethren, we should shew our selves so ignorant and unconscionable: for if we take it for good, but while we have pronounced him guilty thereupon, he stands immediatly as a condemned Felon, and is certainly to dye: and then what will it profit him when this Act comes to be repealed? will it restore him to life again, and give him the comforts of his wife and children? will it make a recompence for her heart-breaking griefs; and the sorrows of his aged Father, and honored Brother and Sister, and dear Friends and Relations? Or will the repealing of the Act though within an our after his death, acquit us from the immediat cause thereof, and of being his Murderers in the sight of God? O no, my Brethren, the repealing of the Act will be to little purpose, should we be so deluded as thereupon to pronounce him guilty. The truth is, and it is the saddest truth that belongs to *England*, that by this deceit and false opinion, That Acts of *Parliament* are to be taken for good, and upon which Jury-men ought to find men guilty if they have broken them, until they are repealed, all the holy men of God, that died as Martyrs in *Queen Marie's* dayes, were put to death, and in plain *English* most horribly murdered, it being the more notorious, being done under colour of Law. And can we imagine the meer repealing of those bloody Acts are any satisfaction in the sight of God, and shall acquit those Jury-men that found them guilty thereupon, and so opened a gap to their destruction, without which none durst have put them to death? *Greenwood, Penry, and Burrow*, and divers Anabaptists in *Queen Elizabeth's* dayes, were also murdered upon this mistake in Jury-men for Non-conformity: And what satisfaction is it now that those Statutes are repealed? doth it make that they were not murdered? No, dear Friends; the greatest weight in Tryals of men lieth upon the Consciences of the Jury men of *England*; they are the real Guardians of the People's lives, limbs, liberties and estates; and they ought not to find any man guilty upon any Statute in any case, which appears to have no good ground upon the standing Law of *England*: And doubtless it would become *England*, from the most aged and ripe years even to the youngest, yea, as the Prophet *Joel* invites to him even the suckling and babes, and in the most solemn manner that may be, to keep yearly publick dayes of Humiliation for the many horrible Murders that have been committed by Courts of Justice and Juries; for want of which Testimonie of true Repentance, and of resolutions of greater care for the future, being still lyable upon every temptation to do the like, no question the wrath of God hath been poured out upon the Land.

And let us all pray earnestly unto God, that he will be pleased to give us all eyes to see, and hearts to consider, how much the safety and happiness of us all depends upon our sticking close to the old and good Laws of the Land, and to lay to heart how much it concerns the good men of *England*, the Jury-men especially, who are to determine all Causes, to be able to judge; and to distinguish between true and counterfeit Laws, as wel in other causes as in this, lest, afore they are aware, they take dross for Gold, and counterfeit coin for current money; and being deceived them-



themselves, and deceiving others, kill were they ought to save, and of Preservers, become murderers of the just and innocent. Oh! let us take heed of being guided by the opinions of Judges, Lawyers, Pleaders, or other Officers, it is not they that must answer for our guilty, or not guilty, before the Righteous Judge of Heaven and Earth, before whose dreadful Throne the Prisoners at the Bar shall stand with as much respect as any of us, or them; for God is no respecter of persons in Judgment.

And henceforward let it be our work to make every man, woman (and child too as far as is possible) sensible, how exceedingly it concerns them to claim, and adhere to, as their undoubted right, this Fundamental Law, *That no one be adjudged of life, limb, liberty, or estate, but by judgment of Juries, according to the Law of the Land*; and not to admit any other way of Tryals upon any pretence whatsoever, nor to allow of any Law made by Parliament, contrary to any Fundamental Law, there being no readier way to our ruine and bondage, then to submit to arbitrary or illegal practises, nothing of this world being to be more precious in our thoughts, then the Laws and Liberties of our Native Country, and which if Mr. *Lilburn* had enjoyed, he had never come into this danger. Most excellently to which effect is the recital of Sir *Edward Cooke* upon the fore-mentioned 29. chap. of *Magna Charta*. He saith thus:

'Against the Ancient Fundamental Law, and in the face thereof, I find an Act of Parliament made; That as well Justices of the Peace, without any finding presentment by the Verdict of 12. men, upon a bare information for the King before them made, should have full power and authority by their discretions to hear and determine all offences and contempts committed, or done by any person against the form, ordinance, and effect of any Statute made and not repealed, by colour of which Act, shaking this Fundamental Law; it is not credible what horrible oppressions and extortions, to the undoing of infinite numbers of People, were committed by Sir *Richard Empson* Knight, and *Edward Dudley*, being Justices of the Peace, throughout England. And upon this injurious Act (as commonly in them it falleth out, a new Office was erected, and they made Ministers of the King's Forfeitures. But at the Parliament holden the first year of *Henry 8.* this Act of the 11. Hen. the 7. is recited and made void, and the ill success thereof; and the fearful ends of these two Oppressors should deter others from committing the like, and should admonish Parliaments, that instead of this ordinary and precious way of Tryals *per Legem Terre*, they bring not in absolute and partial Tryals by discretion.

By which we see plainly, That *Parliament Law* must give place to *Fundamental Law*; and that where it is contrary thereunto, those that shall execute the same, are justly to be punished, as Sir *Rich. Empson* and *Dudley* were, and that *Parliaments* have not power over *Fundamental Law*, and especially over this Tryal by *Twelve men*, nor may bring in absolute and partial Tryals by discretion; in every of which particulars they have injured Mr. *Lilburn*: But we must be careful not to prove either their *Empsons* or their *Dudleys*, as all such cannot but prove, who shall have any hand in his death upon their unlawful and cruel Act, or that shall any wayes second their bloody intentions against him, whosoever they are, though Judges without a Jury, that shall endeavour to take away his life upon the same, they are

no better, if not worse then *Empson* and *Dudly*, and as *Empson's* and *Dudley's* may they speed even in this Generation, and be as odious to all posterity.

This good old Law Sir *Edward Cook* affirmeth to be the best birth-right the People have, for thereby their goods, lands, wives, children, bodies, lives, honor and estimation are protected from wrong and injury; and that by this Law every one without exception for any injury done unto him, may take his remedy by the due course of the Law, and have Justice and Right done to him, freely without sale, fully without denial, and speedily without delay, and then it is not only Justice, but Right: Oh when shall this Justice, and this Right flourish again in England! even when we are more English men established and grounded upon our Fore-fathers Laws, and not tossed to and fro with every wind of the opinions of Judges or Lawyers; and may we now begin to be such, as high time it is we should be such, and let the preservation of Mr. *Lilburn* by this our just and legal Verdict, declare to all men our full resolutions to be such, and that these our Laws and Rights shall be as dear and precious for ever, as they seemed to be to the Army, when they Remonstrated, That they esteemed livelihood and their nearest relations, a price but sufficient to the purchase of so rich a blessing, that they, and all the free-born People of England might sit down in quiet, in full possession of those ancient Fundamental Rights, without which they had little hope of enjoying any comforts of life, or so much as life it self, but at the pleasure of some men, ruling meely according to will and power. But let us not be yea and nay my Brethren, but yea, it being good and acceptable to God to be zealous in a good matter, wherein we may comfortably hope for his gracious protection, which he never faileth to vouchsafe to such as fear an Oath, and tremble at his Word.

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